

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

CRP.No. 2743 of 1999(F)

CR.179/1973 of TALUK LAND BOARD, TIRURANGADI
.....

PETITIONERS/LEGAL HEIRS OF THE DECEASED DECLARANT.

1. T.T.ABDUL KAREEM HAJI, THACHARUPADIKKAL THAZHATH,
CHEEROOR P.O., VIA. VENGARA, MALAPPURAM DIST.
2. MOHAMMED HANEEFA, S/O.OIBRAHIM, THACHARUPADIKKAL
THAZHATH, -DO- -DO-
3. PATHUIMMAKUTTY, W/O.IBRAHIM, -DO- -DO-
4. BEEATHUMMA, D/O.IBRAHIM, -DO- -DO-
5. KADEEJA, D/O. IBRAHIM, -DO- -DO-
6. NOUSHAD, S/O. IBRAHIM, -DO- -DO-
7. KADEEJA, D/O.IBRAHIM, -DO- -DO-
8. MARIYAMMA, D/O.T.T.AHAMMEDKUTTY HAJEE, -DO- -DO-
9. ASSIA, D/O.T.T.AHAMMEDKUTTY HAJEE, -DO- -DO-
- 10.SUBAIDA, D/O.T.T.AHAMMEDKUTTY HAJEE, -DO- -DO-

BY ADV. SRI.P.N.KRISHNANKUTTY ACHAN(SR.)
SRI.T.SETHUMADHAVAN

RESPONDENTS:

1. TALUK LAND BOARD, TIRURANGADI,
REPRESENTED BY ITS CHAIRMAN.
2. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO
GOVERNMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.
3. T.T.MOIDEEN, THACHARUPADIKKAL THAZHATHU, CHEEVOOR P.O.,
VIA. VENGARA, MALAPPURAM DIST.
4. T.T. ITHACHUMMA, -DO- -DO-

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5. T.T.PATHUMMAKUTTY, -DO- -DO-

R1 & R2 BY GOVERNMENT PLEADER BY SHYSON MANGUZHA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 21/02/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

CRP.NO.2743/99

ORDER ON CMP.NO.5683/1999 IN CRP.NO.2743/1999

Dismissed

21/2/2007

Sd/- P.R.RAMAN, JUDGE.

P.R.RAMAN, J.

C.R.P.NO.2743 OF 1999

Dated this the 21st day of February, 2007

O R D E R

In the ceiling case initiated against one Kunhali Haji an extent of 4.93 acres of land was ordered to be surrendered. During the pendency of the proceedings the declarant died and his legal representatives were impleaded, who are respondents 3 to 5 herein. Notice was issued to respondents 3 to 5 (legal heirs) directing them to surrender the said excess land, whereupon they raised objection to the draft statement. The dispute however is confined to an extent of 96 cents of land, as far as the present case is concerned, since so much of extent alone is ordered to be surrendered. It was contended that the declarant had no title or possession over the

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same, as it belongs to one Abdul Kareem Haji (1st petitioner) and three others. Petitioners 2 to 7 are the wife and children of his brother, T.T.Ibrahim, and the revision petitioners 1 and 8 to 10 are legal heirs of the other brother, T.T. Ahammedkutty Haji. The Taluk Land Board rejected the claim stating that the land included in R.S.No.60/1 in document No.179/42 was executed in favour of Parangodath Pathumakutty and the basic tax receipts produced show that tax was remitted by the children of Parangodath Pathumakutty from 1963-64 onwards. But according to the Land Tribunal, though T.T.Ahamedkutty Haji, Ibrahim and Abdul Kareem have claimed right over 2.216 acres of land, they have not stated in their claim petition as to how the land came to their possession and they could not produce any tax receipt also. But the fact

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remains that the authorised officer has reported that they are actually in the possession of the property. But the Land Board was not satisfied with such report, in the absence of any evidence to prove any tenancy right over the same.

2. The learned counsel for the petitioners submitted that in order to prove the claim, they have produced partition deed of the year 1933 and also basic tax receipts since 1959 which were however not considered by the Land Board. I have perused the records. The partition deed of the year 1933 was produced by the parties which is contained in page 437 of the file. The basic tax receipts are also contained in pages 569 to 625. If the parties were in the possession of the properties since 1933, then they would have perfected title by adverse possession. However, the Land Board

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did not consider this aspects of the matter with reference to the documents already produced. Hence, the order of the Taluk Land Board is clearly contrary to the evidence adduced in the case and accordingly, the same is set aside. The matter is remanded to the Taluk Land Board for fresh consideration in accordance with law. The Taluk Land Board shall consider the documents already produced and the contention raised regarding perfection of their title by adverse possession.

C.R.P. is disposed of as above.

P . R . RAMAN ,
Judge .

kcv.

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O R D E R

21st February, 2007